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THE STATE OF South Carolina

JUN 17 2024

In The Court OF APPEALS

SC Court of Appeals

In the County of Lee

APPELLATE Case No. 2024-000577

APPEAL From the Administrative Law Court

Robert L. Reibold, Administrative Law Judge

Case NO. 23C0762

Walter Bean, #278024,

APPELLANT,

v.

South Carolina Department of Corrections, Respondent.

Brief of APPELLANT

Walter Bean[#] 278024

Lee Correctional Inst

990 W. Sackville Highway

Bishopville, S.C 29010

Pro Se

Dated: 06-12-24

Walter B.

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Ackerman v. South Carolina Dept
of Correction, 415 S.C. 412 (2016). 7

Moore v. Sumter County Council, 300 S.C. 270
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Statement of the Issue(s)

Did the ALC error when it dismissed Appellant's
appeal on the grounds that he failed to
exhaust his administrative remedies?

Statement of Facts

Appellant initiated an informal resolution concerning SCDL's failure to pay him the Prevailing Wage, in accordance with South Carolina Code 24-3-430. The same was initiated on Legal by way of the kiosk (ARTSM) on 05-04-23 2023, reference #23-03107921. In response to Appellant's informal resolution, Appellant was told to file a Step one Grievance.

On May 5, 2023, Appellant filed a Step one Grievance alleging that he was not paid the Prevailing Wage. See Da 1 attached. The Step one Grievance was held in abeyance and forward to Step two Grievance, which was denied on November 14, 2023, on the grounds of being untimely. See Da 2 attached.

Appellant filed a Notice of appeal on December 15, 2023, and assigned a Judge on January 5, 2024. Prior to the Department of Corrections filing of a record on appeal, the Court dismissed Appellant's appeal on the grounds that it lacked appellate jurisdiction based on Appellant's

failure to exhaust his administrative remedies.
See order/opinion attached Da 3 to Da 14.

(21)

LEGAL ARGUMENT

Point ONE

THE ADMINISTRATIVE LAW COURT
ERRED WHEN IT DISMISSED APPELLANT'S
CLAIM ON THE GROUNDS THAT HE
FAILED TO EXHAUST HIS ADMINI-
STRATIVE REMEDIES.

The Court below erroneously dismissed Appellant's Claim on the grounds that Appellant should have initiated an informal resolution to the "Payroll Office" at the institution. Appellant submits that such an office does not exist at the Prison. The closest resemblance to a "Payroll Office" at the institution (Lee Correctional) is Inmate Financial. This department handles issues concerning inmates finances. Inmate Financial does not handle matters concerning Policy/Procedures Violations.

Because Appellant was not contending an error in his pay, he was not required to make an informal resolution with Inmate Financial. Appellant is not required to take a step in the exhaustive process that would be vain and/or futile. Moore

v. Sumter County Council, 300 S.C. 270, 273-274, 387 S.E. 2d 455, 458 (1990). Inmates Similar Situated housed at Lee Correctional Institution initiated an informal resolution with "Inmate Financial" with the same contention at hand (Failure to receive the Prevailing wage) and was told to file a grievance with Legal on the inmate kiosk. See reference number 23-0310-1683 of inmate AVORY Pickens #379658. Consistent with the response from Inmate

Financial, Appellant filed his initial complaint (informal resolution) with Legal on the inmate kiosk. Legal informed appellant to file a step one grievance. Appellant complied.

Clearly, Appellant has exhausted his administrative remedies. The Court below has misconstrued Appellant's claim as arguing a "Payroll error", in which SCDC Policy ADM 15.13 Section 12 governs. To be clear, Appellant's claim challenges the "Contract" SCDC made with the Private Sector industry, which is/was in violation of South Carolina Code 24-3-430, which states that inmates must be paid the prevailing wage. Inmate Financial cannot handle this resolution. out-

Side or apart from Inmate Financial Lee Correctional Institution does not have a Payroll office. Even if such a department does exist, it is not the appropriate agency to resolve appellant's Complaint, because appellant is not contending an error in his pay, per se. Appellant's claim has to do with Policy/Procedure.

Moreover, because Appellant's claim involve Policy/Procedure the 15 days deadline to file a grievance does not apply.

See Ackerman v. South Carolina Department of Correction, 415 S.C. 412 (2016).

CONCLUSION

For reasons outlined above, the ALC ruling should be reversed and the case required a ruling on the merits. And whatever else this Court deems appropriate.

US-29-24
Walter R

(7)

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Law Court, to the South Carolina Court
of Appeals, 1220 Senate St. Columbia, S.C.
29201. I also mailed a copy to the
address below:

To: Department of General Council
South Carolina Department of Correction
P.O. Box 21787
Columbia, S.C. 29221

I, Walter Bean, Certify that the
statement made by me are true. I am
aware that if any statements made
by me are willfully false, I am
subject to punishment.

Dated: 06-12-24

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